

**TENNESSEE BOARD OF CHIROPRACTIC EXAMINERS  
MINUTES**

**DATE:** August 12, 2004

**TIME:** 9:00 A.M. CST

**LOCATION:** Tennessee Room  
Ground Floor, Cordell Hull Building  
Nashville, TN 37247

**BOARD MEMBERS**

**PRESENT:** Barry Kelton, D.C., Chair  
Robert Pannell, D.C., Secretary  
Debe Williams, D.C.  
Andrea Selby, D.C.  
Michael Massey, D.C.

**BOARD MEMBERS**

**ABSENT:** Linda Kindrick  
Mike Pigott

**STAFF**

**PRESENT:** Sherry Owens, Board Administrator  
Robbie Bell, Director  
Bob Kraemer, Advisory Attorney  
Rick Agee, Unit Director  
Jerry Kosten, Rules Coordinator  
Barbara Maxwell, Administrative Director

Dr. Kelton, chair, called the meeting to order at 9:00 a.m., August 12, 2004. A sufficient number of members were present to constitute a quorum.

**Review Minutes**

Upon review of the May 12, 2004 minutes Dr. Williams made a motion, seconded by Dr. Selby, to approve the minutes as written. The motion carried.

**Conflict of Interest**

Mr. Kraemer reviewed the conflict of interest with the board asking the members if they have an interest in any matters brought before the board today to disclose that interest to determine if the member should be recused from the proceeding.

### **Petition for Order Modification for Dr. James Brown, Sr.**

Administrative Law Judge Adgent introduced himself to the board and stated because Dr. Brown's petition for order modification is a contested petition she has been asked to preside over the matter. Judge Adgent said the board has the discussion of whether or not to modify the order. Judge Adgent asked the board members to identify themselves for the record and stated that David Bridges is representing Dr. Brown and Alecia Hodge is representing the state.

Mr. Bridges stated that Dr. Brown voluntarily agreed to a one year suspension of his license in February 2000 due to drug abuse.

Dr. Brown said he has met the requirements set forth by the order by paying a \$5,000 fine, obtaining counseling and submit a letter stating he is able to practice. Dr. Brown concluded that he currently takes methadone which is a safe way to block opium and the withdrawal effects.

In cross examination Ms. Hodge stated that Dr. Brown submitted a letter from Earl Diones, Office Manager for Bethel Colony of Mercy, Inc., and Milton Wuertz of the Middle Tennessee Treatment Center, neither of which are a psychiatrist, psychologist or alcohol and drug abuse counselor.

Mr. Wuertz stated he is Dr. Brown's counselor at the Middle Tennessee Treatment Center and feels Dr. Brown is a stable patient.

After testimony by the witnesses, Dr. Brown and Milton Weurtz, Dr. Williams made a motion, seconded by Dr. Massey, to entertain the idea of reinstating Dr. Brown's license with stipulations.

Upon conclusion of the discussion, Dr. Kelton made a motion, seconded by Dr. Massey, to allow Dr. Brown to practice under a temporary license for one year with a chiropractor on site provided he maintains his drug usage, submits quarterly reports to the board consultant from the counseling center, obtain continuing education for the past two years and obtain a psychological evaluation with the results being sent to the board consultant by November 1, 2004. Dr. Pannell opposed the motion. The motion carried.

### **Report from Jerry Kosten, Rules Manager**

Mr. Kosten reviewed the rule amendment which changes the advisory ruling language, deletes the certification fees for CXT's and CTA's and adds disciplinary action for CXT's and CTA's.

Mr. Kosten said a new rule was added regarding free health clinic and volunteer practice requirements which allows retired chiropractors to work in a free health clinic without maintaining a license or paying the privilege tax. Mr. Kosten said the retired chiropractor must obtain a Special Volunteer License, continuing education and are subject to disciplinary action.

Upon review Dr. Pannell made a motion, seconded by Dr. Selby, to send the rules to rulemaking. The motion carried.

### **Report from Robert Kraemer, Advisory Attorney**

Mr. Kraemer stated that unless the board votes Dr. Cole the authority to speak on behalf of the board, he does not have the authority.

Mr. Kraemer said the rule pertaining to Scope of Practice becomes effective August 17, 2004 and the disciplinary rule is still in the Attorney General's Office. Mr. Kramer said the Chiropractic Acupuncture, continuing education and costs rules are still pending a response from the Attorney General to the Medical Board's request for an official opinion on the scope of last year's practice act amendment.

Mr. Kraemer said there are ten (10) open disciplinary cases in OGC.

Mr. Kraemer discussed Public Chapter 575 with the board which allows the access of medical records by a board designee if it has been deemed that medical records are required to determine if the complaint is valid. Upon discussion, Dr. Pannell made a motion, seconded by Dr. Kelton, to allow the board consultant to request medical records. The motion carried.

Mr. Kraemer said that in the Capobianco v. Summers case, the Sixth Circuit Court denied the preliminary injunction against enforcement of solicitation rules.

### **Investigative Report**

Ms. Owens said there are 14 complaints in investigations. Ms. Owens stated eleven (11) complaints have been closed, three (3) unprofessional conduct, two (2) unlicensed practice, one (1) malpractice/negligence and six (6) other.

### **Disciplinary Report**

Ms. Owens stated there is one chiropractic physician currently being monitored. Ms. Owens reviewed the list of chiropractic physicians that have been monitored by the discipline coordinator since 1980.

### **Fiscal Report**

Ms. Owens reviewed the fiscal report which indicates the board has a \$4,184 deficit as of June 30, 2004 which is a big improvement from last year which was \$48,445. Ms. Owens said the board is making good progress in deleting its deficit.

### **Board Administrator Report**

Ms. Owens said the freeze on travel has been lifted and if the board wants to send someone to the FCLB meeting to please let her know and send her the information 120 days prior to the travel date to submit the travel for approval.

Ms. Owens stated there are currently 861 actively licensed chiropractic examiners, 103 actively licensed CXT's and 351 actively licensed CTA's. Ms. Owens reviewed the CQI report and stated between May 3 and August 3, 2004 seven (7) chiropractic examiners, zero (0) chiropractic x-ray operators and four (4) chiropractic therapy assistants have renewed their licenses on-line.

Ms. Owens stated that with the exception of new applications received, all of the files for this profession have been imaged.

### **Continuing Education**

Ms. Owens stated the continuing education audit for 1002-2002 is complete. Ms. Owens said of the 204 letters mailed to chiropractors, 175 submitted continuing education information, 17 letters were returned because of incorrect addresses and 5 did not respond. Ms. Owens said of the 175 continuing education information submitted 147 were acceptable.

Ms. Owens said of the 356 letters mailed to CTA's, 277 submitted continuing education information, 31 letters were returned because of incorrect addresses and 4 did not respond. Ms. Owens said of the 277 continuing education information submitted 191 were acceptable.

Ms. Owens said of the 105 letters mailed to CXT's, 69 submitted continuing education information, 9 were returned because of incorrect addresses and 15 did not respond. Ms. Owens said of the 69 continuing education information submitted 17 were acceptable.

Dr. Selby said the continuing education review is a mess and the penalty for not getting continuing education is less than half of what it costs to go to a seminar.

Dr. Selby and Dr. Pannell agree that there needs to be a \$500 penalty for not getting continuing education.

The board decided to form a task force to discuss and implement a plan for the continuing education audit, policy statements, address changes and new applicants to take the jurisprudence examination. The board elected Dr. Selby and Tiffany Stephens of the TCA to serve on the task force. Ms. Owens said she would check with the East Tennessee Chiropractic Association to see if they could send a representative to represent East Tennessee and ask Dr. Kemper, from Memphis, to represent West Tennessee. The board scheduled the task force meeting for November 4, 2004.

### **Status Counts by Profession Report**

Ms. Owens said for Chiropractors there are 44 applications in process, 961 active, 429 voluntarily retired and 320 failed to renew.

Ms. Owens said for CTA's there are 16 applications in process, 351 active, 22 voluntarily retired and 100 failed to renew.

Ms. Owens said for CXT's there are 3 applications in process, 103 certified, 41 voluntarily retired and 351 failed to renew.

### **Discuss duplicate wall licenses for practitioners with more than one office**

Ms. Owens asked the board if they wanted to issue duplicate licenses for chiropractors with more than one office as chiropractors are required to have their license displayed at their office.

Upon discussion the board determined to allow chiropractors with more than one office to have duplicate renewal licenses upon request.

### **Schedule Board Dates for 2005**

The board scheduled the following dates for their 2005 board meetings:

February	17	Thursday
May	12	Thursday
August	11	Thursday
November	10	Thursday

### **Review and approve continuing education courses**

Upon review, Dr. Pannell made a motion, seconded by Dr. Selby, to approve the following continuing education courses:

Sponsor:	<b>King Bio</b>
Courses:	Broaden Your Scope of Practice With Homeopathy June 26-27, 2004
	Become a Leader in the Wellness Movement With Homeopathy July 17-18, 2004
Sponsor:	<b>Snyder Chiropractic</b>
Course:	CTA seminar Core Stabilization for the Lumbar Spine July 30, 2004

The motion carried.

### **Ratify newly licensed and reinstated chiropractic physicians, CTA's and CXT's**

Ms. Owens asked the board to add Mark Zimmerman to the list of newly licensed chiropractic physicians. Ms. Owens said Dr. Kelton interviewed Dr. Mark Zimmerman a few days ago and approved him for licensure.

Upon review, Dr. Selby made a motion, seconded by Dr. Pannell, to ratify the following newly licensed and reinstated chiropractic physicians, CTA's and CXT's:

Newly Licensed Chiropractic Physicians

Eric A. Anderson  
Adam Brown  
Kelly n. Buchholz  
Thomas E. Carlyle  
Darcy D. Dane  
Daniel S. Giammo  
Jeffrey I. Haynes  
Chad C. Jacobs  
Michael J. Matury  
Larry McCoy, Jr.  
Michael McIntyre  
Derek D. Myers  
Monte Penrod  
Jenny Phan  
Steiner D. Sanford  
Shanuri Settles  
Sandra Setzer  
Mitchell E. Stanlick  
Michael D. Sulack

Reinstated Chiropractic Physicians

Joseph A. Butnor  
William H. Gick  
Dennis R. Jones  
John M. Self, Jr.  
Percy J. Stanfield

Newly Licensed CTA's

Linda R. Baugher  
Christopher Probst  
Matthew C. Smith

Reinstated CTA's

Erin I. Brown

Newly Licensed CXT's

Stacie P. Hobbs

Linda Robison

Jennifer T. Totty

The motion carried.

With no other board business to conduct, Dr. Selby made a motion, seconded by Dr. Pannell, to adjourn.

The board meeting adjourned at 12:45 p.m.

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